

Internal Revenue Service, Treasury

§ 2.1-2

(6) *Corporation* includes associations, joint-stock companies and insurance companies.

(7) *Stock* includes the shares in an association, joint-stock company, or insurance company.

(8) *Affiliate* or *associate* means a person directly or indirectly controlling, controlled by, or under common control with, another person.

(9) *Control*, as used in subparagraph (8) of this paragraph, means the possession of the power to direct in any manner the management and policies of a person, and the terms “controlling” and “controlled” shall have the meanings correlative to the foregoing.

(10) *Person* means an individual, a corporation, a partnership, an association, an estate, a trust, or a company.

(11) *Partnership* includes a syndicate, group, pool, joint venture, or other unincorporated organization.

(12) *Construction*, if so determined by the Administration, shall include reconstruction and reconditioning.

(13) *Reconstruction and reconditioning* shall include the reconstruction, reconditioning, or modernization of a vessel for exclusive use on the Great Lakes, including the Saint Lawrence River and Gulf, if the Administration determines that the objectives of the Act will be promoted by such reconstruction, reconditioning, or modernization, and, notwithstanding any other provisions of law, such vessel shall be deemed to be a “new vessel” within the meaning of section 511 of the Act for such reconstruction, reconditioning, or modernization.

(14) *Purchase-money indebtedness* means any indebtedness, or evidence thereof, created as the result of the purchase of a vessel by the taxpayer.

(15) *Contract, contract for the construction, and construction contract* shall include, if so determined by the Administration, a contract for reconstruction or reconditioning and shall include, in the case of a taxpayer who constructs a new vessel in a shipyard owned by such taxpayer, an agreement, between such taxpayer and the Administration with respect to such construction, and containing provisions deemed necessary or advisable by the Administration to carry out the purposes and policy of section 511 of the Act.

(b) Insofar as the computation and collection of taxes are concerned, other terms used in the regulations in this part, except as otherwise provided, have the same meaning as in the Internal Revenue Code and the regulations thereunder.

§ 2.1-2 Scope of section 511 of the Act and the regulations in this part.

(a) *Applicability of regulations.* (1) The regulations prescribed in this part—

(i) Apply to gain realized from the sale or loss of vessels, earnings from the operation of vessels, and interest (or otherwise) with respect to amounts previously deposited in the construction reserve fund, for a taxable year beginning after December 31, 1964, and

(ii) Apply to the expenditure, obligation, or withdrawal, during a taxable year beginning after December 31, 1964, of any deposits of gain, earnings, and interest (or otherwise) of the character referred to in subdivision (i) of this subparagraph without regard to the taxable year in which the deposits were made.

(2) As to gain, earnings, or interest (or otherwise) described in subparagraph (1)(i) of this paragraph and as to an expenditure, obligation, or withdrawal described in subparagraph (1)(ii) of this paragraph, the regulations in this part supersede Treasury Decision 5330, as amended (26 CFR (1939) Part 32).

(b) *Nonrecognition and accumulation.* Section 511 of the Act provides, under conditions specified, for the nonrecognition, for income and excess-profits tax purposes, of the gain realized from the sale or indemnification for loss of certain vessels including certain vessels in the course of construction, or shares therein. It also permits the accumulation of the proceeds of such sales or indemnification and of certain earnings without liability under Part I (section 531 and following), Subchapter G, Chapter I of the Internal Revenue Code of 1954, and the regulations thereunder (§§ 1.531-1 through 1.537-3 of this chapter (Income Tax Regulations)).

(c) *Availability of benefits.* The benefits of section 511 of the Act are available to any citizen as defined in paragraph (a)(4) of § 2.1-1, who, during any

§ 2.1-3

taxable year owns, in whole or in part, a vessel or vessels within the scope of § 2.1-3. A citizen operating such a vessel or vessels owned by any other person or persons can derive no benefit from the provisions relating to the nonrecognition of gain from the sale or loss of such vessel or vessels so owned, but may establish a construction reserve fund in which he may deposit earnings from the operation of such vessel or vessels.

(d) *Applicability of section 511.* Section 511 of the Act applies only with respect to sales or losses of vessels within the scope of § 2.1-3 or in respect of earnings derived from the operation of such vessels. A loss to be within section 511 of the Act must be an actual or constructive total loss. Whether there is a total loss, actual or constructive, will be determined by the Administration.

§ 2.1-3 Requirements as to vessel operations.

Section 511 of the Act applies with respect to vessels operated in the foreign or domestic commerce of the United States or in the fisheries of the United States and vessels acquired or being constructed for the purpose of such operation. The foreign commerce of the United States includes commerce or trade between the United States (including the District of Columbia), the territories and possessions which are embraced within the coastwise laws, and a foreign country or other territories and possessions of the United States. The domestic commerce of the United States includes commerce or trade between ports of the United States and its territories and possessions, embraced within the coastwise laws and on inland rivers. The fisheries include the fisheries of the United States and its territories and possessions. Section 511 of the Act does not apply to vessels operated in the foreign commerce or fisheries of any country other than the United States.

§ 2.1-4 Application to establish fund.

Any person claiming to be entitled to the benefits of section 511 of the Act may make application, in writing, to the Administration for permission to establish a construction reserve fund.

26 CFR Ch. I (4-1-04 Edition)

The application shall be in such form and substance as the Administration may prescribe and shall designate, among other things, the depository or depositories with which the taxpayer proposes to establish the said fund. The original application shall be executed and verified by the taxpayer, or if the taxpayer is a corporation, by one of its principal officers, in triplicate, and shall be accompanied by eight conformed copies when filed with the Administration.

§ 2.1-5 Tentative authorization to establish fund.

Where the time between the receipt by the Administration of the application for permission to establish a construction reserve fund and the date prior to which an amount received from the sale or loss of a vessel must be deposited to come within the scope of section 511 of the Act is insufficient to permit a determination of the eligibility of the applicant, the Administration may tentatively authorize the establishment of a construction reserve fund and the deposit of such amount therein. Such tentative authorization shall be subject to rescission by the Administration if subsequently it is determined that the applicant is not entitled to the benefits of section 511 of the Act, or has not complied with the statutory requirements. For example, a tentative authorization will be rescinded if the Administration ascertains that the applicant is not a citizen. Upon such determination, the fund shall be closed and all amounts on deposit therein shall be withdrawn.

§ 2.1-6 Establishment of fund.

(a) *Authorization by the Administration.* If the application is approved by the Administration, the Administration will adopt Orders authorizing the establishment of a construction reserve fund with the depository or depositories designated by the taxpayer and approved by the Administration. The Orders will provide for joint control by the Administration and the taxpayer over such fund, will set forth the conditions governing the establishment and maintenance of the fund and the making of deposits therein and withdrawals